

1 **CALIFORNIA CODE OF REGULATIONS**
2 **TITLE 4. BUSINESS REGULATIONS.**
3

4 DIVISION 18. CALIFORNIA GAMBLING CONTROL COMMISSION.
5 (AMENDED REGULATIONS EFFECTIVE APRIL 1, 2020)
6

7
8 **CHAPTER 1. GENERAL PROVISIONS.**

9 **ARTICLE 1. DEFINITIONS AND GENERAL PROCEDURES.**
10

11 **§ 12002. General Definitions.**

12 Unless otherwise specified, the definitions in Business and Professions Code section
13 19805, supplemented by the definitions found in Chapter 10 of Title 9 of Part 1 of the
14 Penal Code (commencing with section 330), shall govern the construction of this
15 division. As used in this division:

16 (a) ...

17 (b) ...

18 (c) ...

19 (d) ...

20 (e) ...

21 (f) ...

22 (g) ...

23 (h) “Chief of the Bureau” or “Chief” means the Chief as provided in Business and
24 Professions Code section 19805, subdivision (d), or his or her designee.

25 (i) ...

26 (j) ...

27 (k) ...

28 (l) ...

29 (m) ...

30 (n) ...

31 (o) ...

(p) ...

(q) ...

(r) ...

(s) ...

(t) ...

(u) “Interim renewal license” means an interim license issued by the Commission to an applicant for renewal of a license, work permit, or other approval involving a finding of suitability when the applicant’s application is pending consideration at an evidentiary hearing or the licensee or holder of a work permit has a pending accusation.

(v) ...

(w) ...

(x) ...

(y) ...

(z) ...

(aa) ...

(ab) ...

(ac) ...

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19853(a)(3) and 19854, Business and Professions Code. Reference: Sections 19800, 19805, 19811, 19816, 19853, 19951 and 19984, Business and Professions Code.

§ 12006. Service of Notices, Orders and Communications.

(a) When service of any notice or other written communication is specifically required to be made pursuant to this section, service must be made by first class mail, registered mail, or certified mail, addressed to the residence address, address of record, or mailing address of the applicant, licensee, or designated agent, as last reported to the Commission.

(b) Notwithstanding subsection (a), notice and other written communication may be provided exclusively via email to the email address of the applicant, licensee, or designated agent as last reported to the Commission where they provide the Commission written authorization including, for instance in a completed and returned Notice of

Defense, CGCC-ND-002 (Rev. 12/18) received under subparagraph (E) of paragraph (2) of subsection (c) of Section 12052 or at an earlier point from the Commission staff.

(c) Service is effective upon mailing or transmission of the notice or communication.

Note: Authority cited: Sections 19811, 19824 and 19840, Business and Professions Code.

Reference: Section 19811, 19824 and 19840, Business and Professions Code

§ 12012. Ex Parte Communication.

(a) For purposes of this section, “ex parte communication” or “ex parte” means a communication upon the merits of an application without notice and opportunity for all parties to participate in the communication.

(b) The limitations on ex parte communication imposed by Business and Professions Code section 19872, subdivisions (a) and (b) apply when an application is submitted to the Bureau for investigation until the Bureau report is submitted to the Commission and the communication is upon the merits of the application.

(c) The limitations on ex parte communication imposed by Business and Professions Code sections 19872, subdivisions (a) and (c) apply when the Bureau report is submitted to the Commission until a decision is final pursuant to Section 12066 and the communication is upon the merits of the application.

(d) When the ex parte provisions of subsections (b) or (c) apply, the following communications will not be considered ex parte:

(1) Communications related to undisputed issues of practice and procedure that are not upon the merits of an application.

(2) Communications made at a public hearing or meeting and which concern a properly noticed matter.

(3) Information or documents provided by the applicant, or his, her, or its designated agent, upon the merits of an application pending disposition before the Bureau or Commission to an advisor or member of the Commission which is simultaneously provided to the Bureau or advocate of the Commission, if one has been designated.

(4) Information or documents provided by the Bureau or an advocate of the Commission, upon the merits of an application pending disposition before the

1 Commission to an advisor or member of the Commission which is simultaneously
2 provided to the applicant.

3 (5) Information or documents provided by any other interested person upon the
4 merits of an application pending disposition before the Bureau or Commission to an
5 advisor or member of the Commission which is simultaneously provided to both the
6 Bureau and an advocate of the Commission, if one has been designated, and the
7 applicant.

8 (6) Communications between an advisor of the Commission and a member of the
9 Commission.

10 (7) Information or documents provided by the Bureau upon the merits of an
11 application pending disposition before the Commission to an advisor or member of the
12 Commission pursuant to Business and Professions Code section 19822, subdivision (b),
13 but that cannot be provided to the applicant pursuant to Business and Professions Code
14 section 19821, subdivision (d), and section 19868 subdivisions (b)(3) and (c)(2), and
15 which is provided as follows:

16 (A) The Bureau first provides redacted information or documents to both an advisor
17 or member of the Commission and the applicant;

18 (B) If an advisor or member of the Commission requests an unredacted copy of the
19 information or documents, the Commission will provide a notice to the applicant,
20 pursuant to Section 12006, allowing at least 14 calendar days for the applicant to object
21 and pursue any appropriate judicial remedies to challenge the request and seek a judicial
22 in camera review of the confidentiality and relevancy of the information; and,

23 (C) The Bureau will provide the unredacted information or documents only to an
24 advisor or member of the Commission and only after the time period specified to seek
25 judicial review has elapsed, or the appropriate judicial remedies have been exhausted,
26 whichever is later.

27 (e) The limitations on ex parte communication imposed by Government Code
28 sections 11430.10 through 11430.80 apply from when:

29 (1) The Executive Director has elected to hold an evidentiary hearing under
30 subsection (a) of Section 12060 until any decision is final pursuant to Section 12066;

1 (2) The Commission has elected to hold an evidentiary hearing under paragraph (2)
2 of subsection (a) of Section 12054 until any decision is final pursuant to Section 12066;
3 or,

4 (3) The Bureau has filed an accusatory pleading under Section 12554 or Business and
5 Professions Code section 19930 until any decision is final pursuant to Government Code
6 section 11519.

7 (f) If an applicant, the Bureau or other interested person or an advocate of the
8 Commission, if one has been designated, communicates directly or indirectly on an ex
9 parte basis with a member of the Commission, including indirectly through submission of
10 information or documentation to an advisor of the Commission, then:

11 (1) All information, documentation and responses must immediately be provided to
12 the Bureau, or an advocate of the Commission, if one has been designated, and the
13 applicant.

14 (2) That communication, if by the applicant, may be used as a basis for denial of the
15 application pursuant to Business and Professions Code sections 19856, 19857 and
16 subdivision (d) of section 19872.

17 (3) Any meeting or hearing following the provision of this communication may be
18 delayed as necessary to allow for the full participation of all parties.

19 (g) A member of the Commission who is involved in a communication on an ex parte
20 basis with an applicant, the Bureau, other interested persons or an advocate of the
21 Commission, if one has been designated, must publicly disclose the communication, and
22 provide notices to both the applicant and Bureau pursuant to Section 12006. The notice
23 will contain any information or document(s) conveyed and will be provided to the
24 applicant and the Bureau as soon as possible so that they may participate in the
25 communication. Any meeting or hearing following the provision of this communication
26 may be delayed as necessary to allow for the full participation of all parties. The member
27 of the Commission may voluntarily withdraw from consideration of an application as
28 long as the withdrawal would not prevent the existence of a quorum qualified to act on
29 the particular application.

(h) An advisor of the Commission may communicate and convey information or documents upon the merits of an application as long as it is simultaneously conveyed to the applicant, the Bureau, and the advocate of the Commission, if one has been designated, so that they may participate in the communication.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, and 19872, Business and Professions Code; Sections 11400.20, 11410.40, 11415.10, and 11415.20, Government Code. Reference: Sections 19821, 19822, 19825, 19868, 19870, 19871, 19872, and 19930, Business and Professions Code; Sections, 11425.10, 11430.10, 11430.20, 11430.30, 11430.50, and 11430.60, Government Code.

§ 12014. Subpoenas.

(a) The issuance and enforcement of a subpoena or subpoena duces tecum in any adjudicative proceeding held pursuant to the Act for which a notice of hearing has been issued will be in accordance with Article 11 (commencing with section 11450.05) and Article 12 (commencing with section 11455.10), respectively, of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. The issuance of a subpoena or subpoena duces tecum may be on the form CGCC-Sub 001 (New 02/13), which is attached in Appendix A to this chapter, or in a manner that otherwise complies with Article 11 of Chapter 4.5 of Part 1 of Division 3 of Title 2 of the Government Code. All subpoenas and subpoenas duces tecum must be served at least 30 days prior to the date specified for commencement of the hearing in the notice of hearing, or the date specified in the subpoena for the appearance of a witness or the production of records.

(b) Any motion made pursuant to subdivision (a) of section 11450.30 of the Government Code must be filed with the presiding officer no later than 15 days prior to the date specified for appearance or for the production of records. The party bringing the motion must serve copies of the motion on all parties and persons who are required by law to receive notice of the subpoena. Any response to the motion must be filed with the presiding officer and served no later than 5 days before the motion is scheduled to be heard. Upon a timely motion of a party or a witness, after notice to the parties and an opportunity to be heard, upon a showing of good cause, the presiding officer may order the quashing of a subpoena or subpoena duces tecum entirely, may modify it, or may direct compliance with it upon other terms and conditions.

(c) The presiding officer may shorten or extend, as applicable, any of the time periods specified in subsections (a) and (b) upon a showing of good cause.

Note: Authority cited: Section 19811, 19823(a), 19824(h), 19840 and 19841, Business and Professions Code; and section 11450.05(b), Government Code. Reference: Sections 19840, 19870 and 19871, Business and Professions Code; sections 1985, 1985.1, 1985.2, 1985.3 and 1985.4, Code of Civil Procedure; sections 1560 and 1561, Evidence Code; and sections 11450.05, 11450.20, 11450.30, 11450.50, and 11455.10, Government Code.

§ 12015. Withdrawal of Applications.

(a) A request by an applicant, or his, her, or its designated agent on the applicant's behalf, to withdraw a submitted application may only be made prior to the Bureau report being submitted to the Commission. The request must be made in writing to the Bureau. Upon receipt of the request to withdraw, Bureau staff will send written confirmation of receipt to the applicant. The Bureau will stay any investigation of the applicant being conducted under Business and Professions Code section 19868. The Executive Director will, upon receipt of any information or documentation provided by the Bureau, place the request before the Commission for consideration at a regularly scheduled meeting pursuant to Section 12054.

(b) The Commission may grant or deny a withdrawal request based upon the public interest and the applicable provisions of the Act, including for example, where the applicant has failed to respond to Bureau or Commission inquiries, or preliminary information has been provided by the Bureau which would indicate grounds for mandatory denial under Business and Professions Code section 19859. A withdrawal request may be granted with or without prejudice based upon the public interest and the applicable provisions of the Act.

(c) If a request for withdrawal is granted, any unused portion of a background investigation deposit will be refunded by the Bureau.

(d) If a request for withdrawal is granted with prejudice, the applicant will not be eligible to apply again for licensure or approval until after the expiration of one year from the date the request for withdrawal is granted.

(e) If the request for withdrawal is denied, the Bureau will proceed with the investigation of the applicant and provide a recommendation pursuant to Business and Professions Code section 19826.

(f) An applicant who has a withdrawal request granted for his, her or its application will not have a right to an evidentiary hearing pursuant to Section 12056.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19869, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891, 19951, and 19984, Business and Professions Code.

§ 12017. Abandonment of Applications.

(a)(1) At any time before the Bureau report is submitted to the Commission, the Chief of the Bureau may deem an application abandoned based upon the following:

(A) Failure of the applicant to respond to Bureau inquiries; or,

(B) Notice by the applicant or his, her, or its designated agent on the applicant's behalf that the application is no longer being pursued because, for example, the applicant is deceased or no longer employed in a capacity that requires Commission consideration.

(2) If an application has been deemed abandoned, a notice of abandonment will be sent to the applicant or his, her or its designated agent, with a copy to the Commission, stating the reasons for abandonment of the application and that the Bureau will consider the application abandoned unless the applicant contacts the Bureau within 30 calendar days from the date of the notice.

(b)(1) At any time after the Bureau report is submitted to the Commission and the Bureau either recommended approval or made no recommendation, the Executive Director may deem an application abandoned based upon the following:

(A) Information related to abandonment provided to the Commission as a result of the Bureau's background investigation;

(B) Failure of the applicant to respond to Bureau or Commission inquiries; or,

(C) Notice by the applicant or his, her or its designated agent that the application is no longer being pursued.

(2) If an application has been deemed abandoned, a notice of abandonment will be sent to the applicant, pursuant to Section 12006, with a copy to the Bureau, stating the

1 reasons for abandonment of the application and that the Commission will consider the
2 application abandoned unless the applicant contacts the Commission within 30 calendar
3 days from the date of the notice.

4 (c) At any time after the Bureau report is submitted to the Commission, the
5 Commission may deem an application abandoned at its discretion, pursuant to Section
6 12054 after taking into consideration those criteria listed under subparagraphs (A)
7 through (C), inclusive, of paragraph (1) of subsection (b).

8 (d) Upon abandonment of an application, a refund of any unused portion of a
9 background investigation deposit will be made.

10 (e) An applicant who has his, her, or its application deemed abandoned will not have
11 a right to an evidentiary hearing pursuant to Section 12056.

12 Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951, Business
13 and Professions Code. Reference: Sections 19859, 19867, 19869, 19880, 19881, 19890, 19891,
14 and 19951, Business and Professions Code.

15
16 **§ 12035. Issuance of Interim Renewal Licenses.**

17 (a) The Commission will issue an interim renewal license to an applicant for renewal
18 of a license, work permit, or other approval involving a finding of suitability when:

19 (1) The Commission has elected to hold an evidentiary hearing pursuant to paragraph
20 (2) of subsection (a) of Section 12054;

21 (2) The Executive Director determines, pursuant to subsection (a) of Section 12060,
22 that it is appropriate for the application to be considered at a GCA hearing; or,

23 (3) An accusation is pending pursuant to Business and Professions Code section
24 19930 and under Chapter 10 of this division.

25 (b) The Commission will issue a new interim renewal license if the hearing process
26 has not been, or will not be, concluded by the expiration date of the current interim
27 renewal license and the interim renewal license holder submits the items identified in
28 paragraphs (1) and (2):

29 (1) A completed application of the same type as the application pending evidentiary
30 hearing to the Bureau with the appropriate:

31 (A) Form;

1 (B) Renewal timeframe;

2 (C) Fees and costs;

3 (D) Supplemental forms if required; and

4 (E) Related requirements.

5 (2) An update to the Commission, in coordination where possible with the
6 complainant as specified under subsection (a) of Section 12056, on the status of the
7 hearing and provide a justification for the delay in concluding the hearing during the term
8 of the first interim renewal license period.

9 (3) Failure to provide a justification for the delay supported by good cause under
10 paragraph (2) may result in the Commission, in the interests of justice and judicial
11 economy, setting a time for a GCA hearing, including retracting an application referred to
12 an APA hearing and referring it to a GCA hearing pursuant to Section 12054(a)(2).

13 (c) The following conditions apply to all interim renewal licenses issued under
14 subsection (a):

15 (1) An interim renewal license will be issued with the same conditions, limitations, or
16 restrictions, if any, that existed for the previous license, except for any condition that by
17 Commission decision has been determined to be satisfied and no longer applicable. This
18 paragraph does not preclude the Commission from applying additional conditions
19 through a separate GCA hearing or with the consent of the applicant.

20 (2) An interim renewal license will be valid for a period of two years from the date
21 the previous license, work permit, or other approval involving a finding of suitability, as
22 well as an interim renewal license, expires, or until a decision is final under Section
23 12066, whichever is earlier, and is not subject to renewal.

24 (3) The holder of an interim renewal license must pay all applicable annual fees
25 associated with that license.

26 (d) The issue date of the most recently granted interim renewal license will serve as
27 the issue date for any regular license, work permit, or other approval granted thereafter.

28 (e) The issuance of an interim renewal license does not limit or impair, and is without
29 prejudice to, any exercise of the discretion vested in the Commission with respect to the
30 license at issue in the hearing process.

(f) The issuance of an interim renewal license is without prejudice to the Bureau's prosecution of an accusation and has no preclusive effect on any ground for discipline that may exist against the licensee, whether or not presented in an accusation.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, 19841, 19893, and 19951, Business and Professions Code. Reference: Sections 19859, 19867, 19869, 19876, 19880, 19881, 19890, 19891, and 19951, Business and Professions Code.

ARTICLE 2. PROCEDURES FOR HEARINGS AND MEETINGS ON APPLICATIONS.

§ 12050. Bureau Recommendation and Information.

(a) When the Bureau report is submitted to the Commission with a recommendation to deny, limit, restrict, or condition a license, permit, finding of suitability, renewal, or other approval, as described in Business and Professions Code section 19868, subdivisions (b) and (c):

(1) The Bureau will provide to the applicant a copy of the following as relevant to the application:

(A) The Bureau report which will include any Bureau recommendation to the Commission.

(B) A detailed factual and/or legal basis for any recommendation.

(C) Any supplemental documents provided to the Commission.

(D) Any other information or documentation provided to the Commission.

(2) The documents or information provided under paragraph (1) need not include anything inconsistent with paragraph (7) of subsection (d) of Section 12012.

(b) The Commissioners, or Administrative Law Judge sitting on behalf of the Commission at an APA hearing, will consider, but are not bound by, any recommendations made by the Bureau or Commission staff.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19824, 19826, 19827, 19868, 19869, 19870, 19871, and 19930, Business and Professions Code.

§ 12052. Commission Meetings; General Procedures; Scope; Notice; Rescheduling of Meeting.

(a) Nothing in this article is intended to limit the manner in which the Commission reviews an application, or otherwise limit its authority or discretion under the Act.

1 (b) This article does not apply to accusations brought under Business and Professions
2 Code section 19930, subdivision (b) to revoke, suspend, or discipline a license,
3 registration, permit, finding of suitability, renewal or other approval under the Act or a
4 matter proceeding pursuant to Chapter 10 of this division.

5 (c) An applicant for any license, permit, finding of suitability, renewal, or other
6 approval will be given notice of the meeting at which the application is scheduled to be
7 heard. Notice will be given pursuant to Section 12006.

8 (1) If the application is scheduled at a non-evidentiary hearing meeting under Section
9 12054, the notice will be provided at least 10 calendar days prior to the meeting date and
10 will inform the applicant of the following:

11 (A) That the applicant will be afforded the opportunity to:

12 1. Address the Commission by way of an oral statement, written statement, or both;
13 and,

14 2. Submit documents in support of the application; however, documents which are
15 not received by the Commission and Bureau with sufficient time for consideration may
16 result in the documents not being considered or the consideration of the application being
17 continued, at the Commission's discretion. Less than 72 hours in advance of the noticed
18 meeting's scheduled start time is presumed to be insufficient time for consideration.

19 (B) That the application may be rescheduled for consideration at an evidentiary
20 hearing pursuant to Section 12058, by Commission action.

21 (C) Any individual making an oral statement may be required to be placed under
22 oath.

23 (2) If the application is to be scheduled at an evidentiary hearing, pursuant to
24 subsections (a) or (b) of Section 12060, the notice of hearing will inform the applicant of
25 the following:

26 (A) The date, time and location of the evidentiary hearing at which the application is
27 scheduled to be heard;

28 (B) The date, time and location of the pre-hearing conference, pursuant to paragraph
29 (1) of subsection (f) of Section 12060;

(C) The individual assigned, pursuant to subsection (c) of Section 12060, as the presiding officer and his or her contact information;

(D) That the applicant will be afforded the opportunity to:

1. Address the Commission by way of an oral statement, written statement, or both;
2. Submit documents in support of the application;
3. Call, examine, cross-examine and impeach witnesses; and,
4. Offer rebuttal evidence.

(E) That a Notice of Defense, CGCC-ND-002 (Rev. 12/18), which is attached in Appendix A to this chapter, will be included unless already provided by Commission staff or the Bureau.

(F) That the waiver of an evidentiary hearing, or failure of the applicant to submit a Notice of Defense, or failure by the applicant to appear at the evidentiary hearing, may result in a default decision or a hearing without applicant participation in accordance with Section 12057.

(d) Any application for a license, work permit, registration, or other approval involving a finding of suitability scheduled for Commission consideration at a noticed public meeting may be rescheduled for a later public meeting by the Executive Director, prior to the meeting, or by the Commission at the meeting, provided that in the case of renewal applications, the Commission must act before the license expires.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19856, 19870, 19871, 19876 and 19930, Business and Professions Code.

§ 12054. Consideration at Regular Commission Meeting.

(a) At a non-evidentiary hearing meeting, the Commission may take, but is not limited to taking, one of the following actions:

(1) Issue a license, temporary license, interim license, registration, permit, finding of suitability, renewal or other approval.

(2) Elect to hold or retract an evidentiary hearing in accordance with Section 12056 and, for a renewal application, issue an interim renewal license pursuant to Section

12035. The Commission will identify those issues for which it requires additional information or consideration related to the applicant's suitability.

(3) Table or continue an item for consideration at a subsequent meeting, for any purpose, including obtaining new or additional information from the applicant, Bureau or Commission staff, provided that in the case of renewal applications, the Commission must act on the application before the license expires.

(4) Extend a license for up to 180 calendar days as necessary, as provided in Business and Professions Code section 19876, subdivision (c).

(5) Approve or deny a request for withdrawal pursuant to Section 12015.

(6) Make a finding of abandonment pursuant to subsection (c) of Section 12017.

(7) If the Bureau has filed an accusation with the Commission pursuant to Business and Professions Code section 19930 prior to Commission action on a renewal application, the Commission will issue an interim renewal license pursuant to Section 12035.

(8) Issue a default decision pursuant to Section 12057.

(9) Consider a request for reconsideration pursuant to Section 12064.

(b) An applicant does not have a right to an evidentiary hearing pursuant to Section 12056 if the Commission approves or denies a request for withdrawal pursuant to paragraph (5) of subsection (a) or makes a finding of abandonment pursuant to paragraph (6) of subsection (a), and that decision is final when issued, unless the Commission specifies otherwise.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19869, 19870, 19871, and 19876, Business and Professions Code.

§ 12056. Evidentiary Hearings.

(a) If the Commission elects to hold an evidentiary hearing, the hearing will be conducted as a GCA hearing under Section 12060, unless the Executive Director or the Commission determines the hearing should be conducted as an APA hearing under Section 12058. The evidence will be presented by the complainant, which is selected by the Executive Director or the Commission, and may be either the Bureau or an advocate

1 of the Commission. If an advocate of the Commission is selected, the determination will
2 include a list of employees of the Commission who will be designated as an advocate of
3 the Commission.

4 (b) Nothing in this section, Section 12058 or Section 12060 confers upon an
5 applicant a right to discovery of the Commission's or Bureau's confidential information
6 or to require production of any document or the disclosure of information which is
7 otherwise prohibited by any provision of the Act, or is privileged from disclosure or
8 otherwise made confidential by any other provision of law. Documentary evidence may
9 be redacted as needed to prevent the disclosure of confidential information. Exculpatory
10 or mitigating information will be provided to the applicant, but any confidential
11 information may be redacted by the Bureau.

12 (c) Under either an APA or a GCA hearing, all parties will bear their own costs. This
13 does not prevent the Bureau from requiring that additional sums be deposited pursuant to
14 Business and Professions Code section 19867 for any necessary supplemental
15 investigations.

16 (d) Where an application has been referred to a GCA hearing or an APA hearing, the
17 Commission retains the authority to retract the referral, pursuant to paragraph (2) of
18 subsection (a) of Section 12054, and refer the application to a GCA hearing or APA
19 hearing pursuant to subsection (a) of Section 12056, or hear the matter at a Section 12054
20 meeting.

21 Note: Authority cited: Sections 19811, 19823, 19824, 19825, 19840, and 19841, Business and
22 Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868, 19870, 19871, and
23 19876, Business and Professions Code; Section 11512, Government Code.
24

25 **§ 12057. Default Decisions and Uncontested Applications.**

26 (a) When an applicant fails to submit a completed Notice of Defense, CGCC-ND-002
27 (Rev. 12/18) according to the timelines on the form, affirmatively waives his, her, or its
28 right to an evidentiary hearing, or he, she, or it fails to appear at an evidentiary hearing,
29 the Commission will, based on the interests of justice and judicial economy:

(1) Issue a default decision after the consideration of the Bureau report, any supplemental reports by the Bureau, and any other documents or testimony provided or which may be provided to the Commission before the decision is issued;

(2) Hold a GCA hearing without applicant participation;

(3) When an applicant fails to appear at an evidentiary hearing, reschedule any GCA hearing on the applicant's application; or,

(4) Act on the application as identified in subsection (a) of Section 12054.

(b) Notice of consideration of a default decision or a hearing without applicant participation under subsections (b) and (c) need not comply with the 60 or 90 day notice provisions of Section 12060, subsections (a) and (b).

(c) A default decision may be considered and approved at a Section 12054 meeting or at a GCA hearing.

(d) Default decisions may be reconsidered in accordance with Section 12064 regardless of whether the decision was considered at a Section 12054 meeting or at an evidentiary hearing.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870, 19871, and 19876, Business and Professions Code; Section 11512, Government Code.

§ 12058. APA Hearing.

(a) When the Commission elects to hold an APA hearing the Commission will determine whether the APA hearing will be held before an Administrative Law Judge sitting on behalf of the Commission or before the Commission itself with an Administrative Law Judge presiding in accordance with Government Code section 11512. Notice of the APA hearing will be provided to the applicant pursuant to Government Code section 11500 et seq.

(b) The burden of proof is on the applicant to prove his, her, or its qualifications to receive any license or other approval under the Act.

(c) A Statement of Issues will be prepared and filed according to Government Code section 11504 by the complainant.

(d) At the conclusion of the evidentiary hearing, when the Commission is hearing the matter, the members of the Commission will take the matter under submission, may discuss the matter in a closed session meeting, may leave the administrative record open in order to receive additional evidence as specified by the Commission, and may schedule future closed session meetings for deliberation.

(e) The evidentiary hearing will proceed as indicated in the notice, unless and until the Executive Director or Commission approves the retraction of referral to an APA hearing.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19816, 19823, 19824, 19825, 19868, and 19876, Business and Professions Code; Section 11512 and 11517, Government Code.

§ 12060. GCA Hearings.

(a) If the Executive Director determines it is appropriate, he or she may set an application for consideration at a GCA hearing in advance of a meeting pursuant to Section 12054. The Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 90 calendar days in advance of the GCA hearing. The Executive Director's determination will be based on information contained in the Bureau's report or other appropriate sources including, without limitation, a request from the Bureau or applicant as well as the Commission's operational considerations.

(b) When the Commission has elected to hold a GCA hearing, the Executive Director will give notice to the applicant, pursuant to paragraph (2) subsection (c) of Section 12052, to the Office of the Attorney General, and to the Bureau no later than 60 calendar days in advance of the GCA hearing.

(c) The presiding officer and her or his support staff will have no communication with the Commission or Commission staff upon the merits of an application prior to the evidentiary hearing. The Executive Director will designate a presiding officer which will be:

(1) A member of the Commission's legal staff; or,

(2) An Administrative Law Judge.

(d) The applicant or the complainant, or the applicant and the complainant, may request a continuance in writing to the Executive Director stating the reason for the continuance and any proposed future hearing dates. The Executive Director or Commission may approve the request.

(e) The complainant will provide to the applicant, subject to subsection (b) of Section 12056, at least 45 calendar days prior to the GCA hearing, and the applicant must provide to the complainant, at least 30 calendar days prior to the GCA hearing, the following items:

(1) A list of potential witnesses with the general subject of the testimony of each witness;

(2) Copies of all documentary evidence intended to be introduced at the hearing and not previously provided;

(3) Reports or statements of parties and witnesses, if available; and

(4) All other written comments or writings containing relevant evidence.

(f) A presiding officer will rule on the admissibility of evidence and on any objections raised except for objections raised under subsection (g). A ruling by the presiding officer is final.

(1) In advance of the GCA hearing, upon a motion of a party or by order of the presiding officer, the presiding officer may conduct a pre-hearing conference, either in person, via teleconference, or by email exchange, subject to the presiding officer's availability and will issue a pre-hearing order if appropriate or requested by either party. The pre-hearing conference and order may address the following:

(A) Evidentiary issues;

(B) Witness and exhibit lists;

(C) Alterations in the Bureau recommendation;

(D) Stipulations for undisputed facts and/or the admission of evidence including without limitation the Bureau's report;

(E) Authorizing offsite livestreaming appearances for parties or witnesses if good cause has been presented and only if the process for offsite livestreaming has been approved by the Executive Director; and,

1 (F) Other issues that may be deemed appropriate to promote the orderly and prompt
2 conduct of the hearing.

3 (2) The GCA hearing need not be conducted according to technical rules of evidence.
4 Any relevant evidence may be considered, and is sufficient in itself to support findings if
5 it is the sort of evidence on which reasonable persons are accustomed to rely in the
6 conduct of serious affairs, regardless of the existence of any common law or statutory
7 rule that might make improper the admission of that evidence over objection in a civil
8 action.

9 (g) The Commission may, at any time upon a showing of prejudice by the objecting
10 party:

11 (1) Prohibit the testimony of any witness or the introduction of any documentary
12 evidence that has not been disclosed pursuant to subsection (e); or

13 (2) Continue any meeting or hearing as necessary to mitigate any prejudice.

14 (h) The complainant will present all facts and information in the Bureau report, if
15 any, and the results of the Bureau's background investigation, and the basis for any
16 recommendation, if the Bureau filed one with the Commission according to Business and
17 Professions Code section 19868, to enable the Commission to make an informed decision
18 on whether the applicant has met his, her, or its burden of proof. The complainant may
19 but is not required to recommend or seek any particular outcome during the evidentiary
20 hearing, unless it so chooses.

21 (i) The burden of proof is always on the applicant to prove his, her, or its
22 qualifications to receive any license or other approval under the Act.

23 (j) The applicant may choose to represent himself, herself, or itself, or may retain an
24 attorney or lay representative. Lay representatives may assist the applicant but are not
25 authorized to serve as an attorney as otherwise defined and regulated by state law.

26 (k) Except as otherwise provided in subsection (g), the complainant and applicant
27 will have the right to call and examine witnesses under oath; to introduce relevant
28 exhibits and documentary evidence; to cross-examine opposing witnesses on any relevant
29 matter, even if the matter was not covered in direct examination; to impeach any witness,
30 regardless of which party first called the witness to testify; and to offer rebuttal evidence.

1 If the applicant does not testify on his, her or its behalf, the applicant may be called and
2 examined, under oath, as if under cross-examination.

3 (l) Oral evidence will be taken upon oath or affirmation, which may be administered
4 by the Executive Director, a member of the Commission, or the presiding officer if an
5 Administrative Law Judge.

6 (m) At the conclusion of the evidentiary hearing, the members of the Commission
7 will take the matter under submission, may discuss the matter in a closed session
8 meeting, and may schedule future closed session meetings for deliberation.

9 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and
10 Professions Code. Reference: Sections 19816, 19823, 19824, 19824.5, 19825, 19868, 19870,
11 19871, and 19876, Business and Professions Code; Section 11512, Government Code.

12
13 **§ 12062. Issuance of GCA Hearing Decisions.**

14 (a) Within 75 calendar days of the conclusion of a GCA hearing, the Commission
15 will issue its decision, which will comply with Business and Professions Code section
16 19870, and will be served pursuant to Section 12006 and, in the case of a gambling
17 license, on any associated or endorsed owner or owner-licensee.

18 (b) All decisions of the Commission issued pursuant to this section will specify an
19 effective date and may include further directions as to any stay provisions or orders to
20 divest.

21 (c) Only members of the Commission who heard the evidence presented in the
22 hearing are eligible to vote on a decision and may vote by mail or by another appropriate
23 method unless such a requirement would prevent the existence of a quorum qualified to
24 act on the particular application. In that event, a member of the Commission who has not
25 heard the evidence may be allowed to vote after a review of the complete record and any
26 additional briefing or hearing the Commission believes necessary.

27 Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and
28 Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19883 and
29 19892, Business and Professions Code.

30
31 **§ 12064. Requests for Reconsideration.**

32 (a) After the Commission issues a decision following a GCA hearing conducted
33 pursuant to Section 12060, an applicant denied a license, permit, registration, or finding

1 of suitability, or whose license, permit, registration, or finding of suitability has had
2 conditions, restrictions, or limitations imposed upon it, may request reconsideration by
3 the Commission. A request for reconsideration must be:

4 (1) Made in writing to the Commission, copied to the complainant. The Bureau may
5 provide a written response to the Commission within 10 calendar days of receipt of the
6 request; and,

7 (2) Received by the Commission and complainant within 30 calendar days of service
8 of the decision, or before the effective date specified in the decision, whichever is earlier.

9 (b) A request for reconsideration must state the reasons for the request, which must
10 be based upon either:

11 (1) Newly discovered evidence or legal authorities that could not reasonably have
12 been presented before the Commission's issuance of the decision or at the hearing on the
13 matter; or,

14 (2) Other good cause which the Commission may decide, in its sole discretion, merits
15 reconsideration.

16 (c) The Commission will place the request on the Commission's agenda within 60
17 calendar days of its receipt. The applicant and complainant will be given at least 10
18 calendar days' advance written notice, pursuant to Section 12006, of the date and time of
19 the Commission meeting at which the request will be heard. The applicant and
20 complainant, whether present at that meeting or not, will be notified in writing of the
21 Commission's decision on the request within 10 calendar days following the meeting
22 pursuant to Section 12006.

23 (d) The effective date of the decision will be stayed while the request is under review
24 by the Commission.

25 (e) The granting or denial of reconsideration under this section will be at the sole
26 discretion of the Commission.

27 (f) When the Commission grants reconsideration, the decision is stayed pending
28 further action on the application, including but not limited to affirming its decision, or
29 vacating the initial decision and issuing a reconsidered decision.

(g) The Commission may stay the effective date of the decision for a period it deems appropriate when the Commission denies a request for reconsideration.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section 11521 Government Code.

§ 12066. Final Decisions; Judicial Review.

(a) A withdrawal or abandonment decision is final:

(1) 30 calendar days after the date of notice of abandonment pursuant to either paragraph (2) of subsection (a) or paragraph (2) of subsection (b) of Section 12017 if not repealed by the issuing agency.

(2) Upon approval by the Commission pursuant to paragraph (5) of subsection (a) of Section 12054 or the making of a finding of abandonment pursuant to paragraph (6) of subsection (a) of Section 12054.

(b) A Commission decision is final:

(1) Upon the effective date specified in the decision or 30 calendar days after service of the decision if no effective date is specified, and if reconsideration under Section 12064 has not been requested; or,

(2) If a request for reconsideration has been granted under Section 12064, immediately upon the Commission's re-issuing its decision or the date specified in the decision upon issuance of a reconsidered decision.

(3) If a request for reconsideration has been denied under Section 12064,

(A) Immediately upon the denial of the request; or,

(B) Upon the expiration of any stay granted pursuant to subsection (g) of Section 12064.

(c) A decision of the Commission denying an application or imposing conditions on a license will be subject to judicial review as provided in Business and Professions Code section 19870, subdivision (e). Neither the right to petition for judicial review nor the time for filing the petition will be affected by failure to seek reconsideration.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, and 19876, Business and Professions Code; Section 11521 Government Code.

§ 12068. Decisions Requiring Resignation or Divestiture.

When an application is denied or conditions, limitations, or restrictions are imposed under the Act or this chapter and that decision is final under Section 12066, any requirements set forth in the decision must be complied with, and the following will apply to the extent not inconsistent with the decision, as applicable:

(a)(1) If the denied applicant is an officer, director, employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the denied applicant must resign according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an officer or director of a corporation that is licensed, registered, or found suitable by the Commission, the corporation must remove that person from office according to the date specified in the Commission's decision and must notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a corporation licensed, registered, or found suitable by the Commission, the corporation must terminate its relationship with that person pursuant to the date specified in the decision and must notify the Commission in writing.

(4) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the corporation licensed, registered, or found suitable by the Commission, must comply with Business and Professions Code section 19882, if applicable.

(b)(1) If the denied applicant is an officer, director, manager, member, employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the denied applicant must resign according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an officer, director, manager or member of a limited liability company that is licensed, registered, or found suitable by the Commission, the limited liability company must remove that person from office according to the date specified in the Commission's decision and must notify the Commission in writing.

(3) If the denied applicant is an employee, agent, representative, or independent contractor of a limited liability company licensed, registered, or found suitable by the Commission, the limited liability company must terminate its relationship with that person pursuant to the date specified in the decision and must notify the Commission in writing.

(4) Any denied applicant subject to paragraphs (1) or (2) of this subsection and the limited liability company that is licensed, registered, or found suitable by the Commission, must comply with Business and Professions Code section 19892, if applicable.

(c)(1) If the denied applicant is a general or limited partner in a general or limited partnership licensed, registered, or found suitable by the Commission, the denied applicant must resign as a partner according to the date specified in the Commission's decision and must notify the Commission in writing.

(2) If the denied applicant is an owner or holder of an interest in a limited partnership licensed, registered, or found suitable by the Commission, the denied applicant and the limited partnership must comply with Business and Professions Code section 19892 and must notify the Commission in writing.

(d) If the denied applicant is a principal in a business entity not otherwise described above that is licensed, registered, or found suitable by the Commission:

(1) The denied applicant must resign his or her position within that entity and divest whatever interest is held in that entity pursuant to the timelines and instructions specified in the Commission's decision, and must notify the Commission in writing.

(2) The business entity must remove the denied applicant from any principal role in the business entity and must notify the Commission in writing.

(e) Where the decision does not specify a time for removal and there is no other controlling statutory or regulatory timeframe under paragraph (2) of subsection (a), paragraph (2) of subsection (b), or paragraph (2) of subsection (d), the specified person must be removed no later than 60 days after the effective date of the decision.

Note: Authority cited: Sections 19811, 19823, 19824, 19840, and 19841, Business and Professions Code. Reference: Sections 19823, 19824, 19825, 19870, 19871, 19876, 19882, 19883 and 19892, Business and Professions Code.///

APPENDIX A

(Modify Form CGCC-ND – 002 (Rev. 12/18))



State of California
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 220
Sacramento, CA 95833-4231
(916) 263-0700; Fax: (916) 263-0452
www.cgcc.ca.gov

NOTICE OF DEFENSE
CGCC – ND – 002 (Rev. 12/18)

In the Matter of:

CGCC No.

Failure to submit this Notice of Defense to the California Gambling Control Commission (Commission) and the Bureau of Gambling Control (Bureau) may result in a default decision being issued by the Commission. The Notice of Defense must be received by the Commission and Bureau within 21 days of service by the Commission or Bureau.

SECTION 1: HEARING REQUEST

PLEASE ANSWER THE FOLLOWING:

☐

I REQUEST AN EVIDENTIARY HEARING WHERE THE COMMISSION WILL CONSIDER THE MERITS OF MY APPLICATION, THE BUREAU REPORT, AND ANY RECOMMENDATION OF THE BUREAU.

SECTION 2: HEARING WAIVER

PLEASE ONLY ANSWER THE FOLLOWING IF A HEARING IS NOT REQUESTED UNDER SECTION 1 ABOVE AND IF APPLICABLE:

1

☐

I ACKNOWLEDGE AND ACCEPT THAT THE CONDITIONS, LIMITATIONS AND RESTRICTIONS ATTACHED TO THE NOTICE WILL BE PLACED ON MY LICENSE, REGISTRATION, FINDING OF SUITABILITY OR OTHER APPROVAL, AND I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)

☐

I WAIVE MY RIGHT TO AN EVIDENTIARY HEARING. (SEE BOX 2)

2

THE WAIVER OF MY RIGHT TO AN EVIDENTIARY HEARING INCLUDES A WAIVER OF THE FOLLOWING ASSOCIATED RIGHTS:

THE RIGHT TO BE HEARD AT THE HEARING
THE RIGHT TO A COPY OF THE HEARING'S GOVERNING PROCEDURE
THE RIGHT TO DISCOVERY
THE RIGHT TO PRESENT ORAL EVIDENCE
THE RIGHT TO PRESENT AND EXAMINE WITNESSES
THE RIGHT TO INTRODUCE RELEVANT EXHIBITS
THE RIGHT TO CROSS-EXAMINE OPPOSING WITNESSES
THE RIGHT TO IMPEACH WITNESSES
THE RIGHT TO OFFER REBUTTAL EVIDENCE
THE RIGHT TO CHALLENGE EVIDENCE USED AGAINST ME
THE RIGHT TO REQUEST RECONSIDERATION FOLLOWING THE DECISION'S ISSUANCE
THE RIGHT TO PETITION FOR REVIEW OF THE DECISION UNDER SECTION 1085 OF THE CODE OF CIVIL PROCEDURE

THE WAIVER OF AN EVIDENTIARY HEARING MAY RESULT IN A DEFAULT DECISION BEING ISSUED BY THE COMMISSION BASED UPON THE BUREAU REPORT, ANY SUPPLEMENTAL REPORTS BY THE BUREAU AND ANY OTHER DOCUMENTS OR TESTIMONY ALREADY PROVIDED OR WHICH MAY BE PROVIDED TO THE COMMISSION, OR THAT THE HEARING MAY CONTINUE TO OCCUR ON THE ORIGINALLY NOTICED DATE WITHOUT APPLICANT PARTICIPATION.

SECTION 3: LANGUAGE PREFERENCE

PLEASE ANSWER **ONE** OF THE FOLLOWING (IF YOU REQUIRE ASSISTANCE, PLEASE CONTACT THE COMMISSION AT (916) 263-0700):

<input type="checkbox"/>	I UNDERSTAND ENGLISH AND HAVE READ AND UNDERSTAND THIS FORM.	
<input type="checkbox"/>	I DO NOT UNDERSTAND ENGLISH AND HAVE HAD AN INTERPRETER READ AND EXPLAIN THIS FORM TO ME.	
<input type="checkbox"/>	I WILL REQUIRE AN INTERPRETER AT THE HEARING.	INTERPRETER LANGUAGE:

SECTION 4: REPRESENTED BY AN ATTORNEY

PLEASE ONLY ANSWER THE FOLLOWING IF YOU ARE REPRESENTED BY AN ATTORNEY:

<input type="checkbox"/>	I AM REPRESENTED BY AN ATTORNEY, WHOSE NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:	
NAME:		
MAILING ADDRESS:		
CITY, STATE AND ZIP CODE:		
TELEPHONE NUMBER:		
EMAIL ADDRESS:		
<input type="checkbox"/>	MY ATTORNEY REQUESTS THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED VIA EMAIL, INSTEAD OF VIA MAIL.	

SECTION 5: SELF-REPRESENTED (WITH OR WITHOUT LAY REPRESENTATION)

PLEASE ANSWER THE FOLLOWING IF YOU ARE NOT REPRESENTED BY AN ATTORNEY OR IF YOU HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE:

<input type="checkbox"/>	I AM NOT REPRESENTED BY AN ATTORNEY. IF AND WHEN AN ATTORNEY IS RETAINED, IMMEDIATE NOTIFICATION OF THE ATTORNEY’S NAME, ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS WILL BE PROVIDED TO THE COMMISSION AND THE BUREAU SO THAT THE ATTORNEY WILL BE ON THE RECORD TO RECEIVE LEGAL NOTICES, PLEADINGS, AND OTHER PAPERS. MY ADDRESS, TELEPHONE NUMBER, AND EMAIL ADDRESS APPEAR BELOW:	
MAILING ADDRESS:		
CITY, STATE AND ZIP CODE:		
TELEPHONE NUMBER:		
EMAIL ADDRESS:		
<input type="checkbox"/>	I REQUEST THAT ALL NOTICES OR WRITTEN COMMUNICATIONS FOR PURPOSES OF THE EVIDENTIARY HEARING BE PROVIDED TO ME VIA EMAIL, INSTEAD OF VIA MAIL.	
<input type="checkbox"/>	I WILL HAVE THE ASSISTANCE OF A LAY REPRESENTATIVE DURING THE HEARING.	

SECTION 6: SIGNATURE

PLEASE FILL OUT THE FOLLOWING. FOR CAPACITY PLEASE LIST THE RELATIONSHIP TO THE APPLICANT (I.E. OWNER, OFFICER, DIRECTOR, MANAGING MEMBER, GENERAL PARTNER, ETC. WRITE N/A IF INDIVIDUAL SIGNING ON OWN BEHALF. LAY REPRESENTATIVES MAY NOT COMPLETE THIS SECTION ON BEHALF OF THE APPLICANT).

PRINTED NAME	SIGNATURE	CAPACITY	DATE (MM/DD/YYYY)